

REMARKS

The only issue outstanding in the office action dated May 15, 2009, is the rejection of all claims under 35 U.S.C. 102(e). Reconsideration of this rejection, in view of the following discussion, is respectfully requested.

Claims 1, 3 and 8-20 have been rejected under 35 U.S.C. 102(e) over each of Francis '903, Francis '368 or Goulding '404. Each of these three patents is commonly assigned with the present application. The rejection is made under §(e) of 35 U.S.C. 102. In fact, it is submitted that each of these three patents does not anticipate the present claims, for the reasons explained below. Thus, to the extent that these references were even to suggest the present claims under 35 U.S.C. 102(e)/103, these references would be unavailable, in view of the statement of common ownership below. It is moreover noted that a copy of the priority document of the present application, which priority document was in English, is furnished herewith. Thus, the present application is entitled to a filing date of February 24, 2004, before the publication of any of the three cited references. Thus, none of three cited patents constitutes a reference against the present claims, and withdrawal of all of the rejections is appropriate.

The three cited applications do not anticipate the present claims, inasmuch as each patent requires a liquid crystal composition comprising one or more compound with a dielectric anisotropy ($\Delta\epsilon$) of 40 or more. See e.g., col. 5 of US 7,294,368 (at least 25%), col. 6 of US 7,258,903 (at least 25%) and col. 8 of US 7,335,404 (1 to 25%). Even in the broadest disclosure of each patent such compounds are disclosed as essential.

Among all the disclosed compounds in the references, one of ordinary skill would clearly know that the only ones capable of achieving such a high $\Delta\epsilon$ of 40 or higher are the ones substituted by a cyano group (cf. compounds I and II in US '368; compounds II and III in US '903; compound V in US '404). In contrast, the compounds in the references which are headed by a trifluorobenzene group are typically in the range of $\Delta\epsilon = 10-25$, well below the threshold of 40. Therefore the references inevitably disclose only compositions comprising at least some of the cyano substituted compounds. This is further evident from the examples, wherein at least one of the cyano compounds "ME3N.F" (for both Francis et al.) or "PZU-V2-N" (Francis or

Goulding et al.) is present.

Accordingly, none of the cited references anticipate the present claims, which recite compositions which are free of compounds having an end ring substituted with at least one cyano group. As a result, any rejection in which these references are available would have to be one under 35 U.S.C. 102(e)/103, and this rejection is unavailable in view of the statement of common ownership below. Withdrawal of all rejections is therefore respectfully requested.

Statement of Common Ownership

Each of the present application, and U.S. Patents 7,258,903, 7,294,368, and 7,335,404 were subject to an obligation to assign to the same entity at the time the present invention was made. Accordingly, these references are not available under 35 U.S.C. 103.

The claims of the application are submitted to be in condition for allowance. However, if the Examiner has any questions or comments, he or she is cordially invited to telephone the undersigned at the number below.

The Commissioner is hereby authorized to charge any fees associated with this response or credit any overpayment to Deposit Account No. 13-3402.

Respectfully submitted,

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